

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 08-20411

Plaintiff,

Thomas L. Ludington  
United States District Judge

vs.

MATTHEW JAMES REMBISH,

Michael Hluchaniuk  
United States Magistrate Judge

Defendant.

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**ORDER OF COMMITMENT FOR TREATMENT**

On October 9, 2008, this court ordered a competency examination of the defendant pursuant to 18 U.S.C. § 4241(b) and 4247(b) and (c). (Dkt. 20). That examination was completed with a report of the examination having been prepared by Dr. Jason V. Dana, dated December 5, 2008, and submitted to the Court and counsel for the government and for defendant.

The issue of defendant's competency to stand trial was referred to the undersigned on January 6, 2009, by District Judge Thomas L. Ludington. (Dkt. 26). A hearing on the issue was held on January 27, 2009, with defendant and his counsel being present as well as counsel for the government. Both parties stipulated to the admission of Dr. Dana's report and neither party offered any

additional evidence as to the issue of defendant's competency. Based on the opinion of Dr. Dana that defendant is unable to understand the nature and consequences of the proceedings against him and that he is unable to assist properly in his defense, as well as the undersigned's observations of defendant in court and the comments of defense counsel, the undersigned determines that defendant is not competent to stand trial at the present time.

As a result of such a determination and pursuant to 18 U.S.C. § 4241(d)(1), **THE COURT ORDERS** that defendant is committed to the custody of the Attorney General for hospitalization and treatment in a suitable facility for a reasonable period of time, not to exceed four months, for the purpose of determining whether there is a substantial probability that in the foreseeable future defendant will attain the capacity to permit the proceedings to go forward.

**THE COURT ALSO ORDERS** that within the period of time authorized by this order, or such additional reasonable period of time approved by the court pursuant to 18 U.S.C. § 4241(d)(2), the Attorney General must advise the Court whether defendant's mental condition has so improved that trial may proceed. On receipt of that report, defendant must be returned to this Court for a status conference and further determination as to defendant's competency at that time.

**THE COURT ORDERS** that the United States Marshal's Service must promptly and expeditiously transfer defendant to a suitable facility, to be determined by the Attorney General, and that the United States Marshal's Service must do this as quickly as reasonably possible so as to minimize the period during which defendant must travel to, be confined in, and be returned from the facility where such treatment will be conducted. The time period associated with this process, from the filing date of the Order for Psychiatric or Psychological Examination (Dkt. 20) through and including the date on which a final determination is made regarding whether defendant has regained his competency to stand trial, is excluded under the Speedy Trial Act pursuant to the terms of 18 U.S.C. § 3161(h)(1)(A) and (h)(4).

**IT IS SO ORDERED.**

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections must specify the part of the Order to which the party objects and

state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Date: January 28, 2009

s/Michael Hluchaniuk  
Michael Hluchaniuk  
United States Magistrate Judge

### **CERTIFICATE OF SERVICE**

I certify that on January 28, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification to the following: Norman W. Donker, AUSA, and Kenneth R. Sasse, Attorney at Law, and I hereby certify that I have mailed by United States Postal Service/hand-delivered the paper to the following non-ECF participants: Pretrial Services Agency and United States Marshal's Service.

s/James P. Peltier  
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